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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,702	01/07/2004	Joseph Salesky	PA2854US	8748

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Carr & Ferrell LLP  
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EXAMINER

JEAN, FRANTZ B

ART UNIT PAPER NUMBER

2151

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/753,702

Applicant(s)

SALESKY ET AL.

Examiner

Frantz B. Jean

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-51,53 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-51,53 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/27&amp;6/19/06</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to the request for consideration filed on 06/19/06. Claims 23-51 and 53-54 are still pending in the application.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 06/19/06 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Tung et al. US patent Number 5,859,979.

As per claim 1, Tung teaches a conferencing system (fig 1 element 100) comprising:

A conference server and at least one client (Tung discloses two PC (100) that are exchanging information see col. 3 line 65 to col. 4 lines 15; in addition, Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication (see col. 19 line 22 to col. 20 line 8); network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8). Tung

implicitly and explicitly discloses conference server providing data updates to the at least on client via network connection, where the data updates are delivered in an output data type based on conferencing system connection or load parameters (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature, which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claims 24-26, Tung teaches changing output data format (data are reconstructed, compressed and decompressed see col. 5 lines 16-39; lines 45 et seq).

As per claims 27-28, Tung discloses differenced compressed and uncompressed data (audio/video see col. 5 lines 9 et seq).

As per claim 29, Tung teaches updates or information that are transmitted to clients in parallel (see col. 25 lines 41-49).

As per claims 30-32, Tung teaches connection or load parameters of conference server, at least one client, and network connections (see fig 5; col. 19 line 22 to col. 20 line 9).

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As per claim 33, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); providing conferencing data from the server to the at least one client (see col. 19 line 22 to col. 20 line 8); conferencing data in a format based on conferencing system parameters and changing the format based on changes to the conferencing system parameters (see col. 5 line 9 to col. 6 line 44 of the specification).

As per claim 34, Tung teaches changing format that occurs dynamically (D/A and A/D conversion col. 5 lines 27-57; col. 6 lines 6-44).

As per claims 35, Tung teaches network connection speeds or loads (process for negotiating conferencing capabilities col. 1 lines 54 et seq).

As per claim 36, Tung teaches loads (capabilities) of the at least one client (Conferencing API A sends a Capabilities Request on the control channel, specifying conference requirements, which Conferencing API B receives. Conferencing API B sends a Capabilities Response on the control channel, accepting or modifying conference requirements, which Conferencing API A receives col. 29, lines 46-52).

As per claim 37, Tung teaches server loads (capabilities) (In a conferencing network comprising preferred embodiments of conferencing system 100, only one site need be running a conferencing application before information sharing can be initiated. Moreover, if possible, the same application on the remote site is launched to complete the sharing. Conference manager 544 of FIG. 5 provides these capabilities. Conference manager 544 allows an application to

install, register/unregister, make/hang-up calls, and establish/destroy communication channels. After successfully placing a call to a remote site, a conferencing application may try to establish a communication channel. In the process of establishing communication channels, the application is capable of being launched remotely if it is necessary. To accomplish this, all conferencing applications are assigned a unique application ID (i.e., APPID) col. 24 lines 21-34).

As per claim 38, Tung implicitly and explicitly teaches data updates from the server to the at least one client (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature, which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claims 39-42, they contain the same limitations as discussed claims 25-28 above.

Therefore, they are rejected under the same rationale.

As per claims 43 and 45, they contain the same limitations as discussed in claim 33 above.

Therefore, they are rejected under the same rationale.

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As per claim 44, Tung implicitly and explicitly teaches data updates from the server to the at least one client (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature, which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claim 46, it contains the same limitations as discussed in claim 23 above. Therefore, it is rejected under the same rationale.

As per claims 47-50, they contain the same limitations as discussed in claims 35-38 above.

Therefore, they are rejected under the same rationale.

As per claim 51, Tung teaches a conferencing system (fig 1 element 100) comprising: A conference server and at least one client (Tung discloses two PC (100) that are exchanging information see col. 3 line 65 to col. 4 lines 15; in addition, Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8), the conference server providing conferencing data to the at least one client via the network connections, where the conferencing data is provided in an output based on a

determined size of at least a portion of the conferencing data (see col. 14 lines 64 to col. 15 line 30; col. 75 line 65 to col. 76 line 31).

As per claim 52, Tung teaches a conferencing system (fig 1 element 100) comprising: A conference server and at least one client (Tung discloses two PC (100) that exchanging information (col. 3 line 65 to col. 4 line 15); in addition Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication (see col. 19 line 22 to col. 20 line 8); network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8), the conference server providing conferencing data to the at least one client via the network connections, where the conferencing data is provided in a compressed format (see col. 5 line 9 et seq).

As per claim 53, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); determining a size of conferencing data; and providing at least a portion of the conferencing data from the server to the at least one client, the conferencing data in a format based on the determined size of at least a portion of the conferencing data (see col. 14 lines 64 to col. 15 line 30; col. 75 line 65 to col. 76 line 31).

As per claim 54, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); determining a type of compression to be used and providing conferencing data from the server to the at least one client,



the conferencing data in a format based on the determined type of compression to be used (col. 5 line 9 to col. 6 line 44 of the specification).

***Response to Arguments***

Applicant's arguments filed on 06/19/06 have been fully considered but they are not persuasive.

Applicants argued that Tung fails to teach: 1) a conference server that provides data updates to client where the data updates are delivered in an output data type based on conferencing system connection or load parameters.

Examiner respectfully submits that Applicants' representative has misinterpreted the prior art of record to Tung. Tung discloses a conference manager that coordinates Communication, connection and data management activities for the conference application (see fig 5; col. 19 lines 13 et seq). In addition, Tung discusses data updates based on conferencing system connection (in col. 26 lines 30-42 Tung recites that data conferencing application asks conference manager to establish channels for transmitting and receiving data signals with the remote conference system. Conference manager 544, then, informs (makes aware, updates) all registered applications of connections by sending the CMN\_Call message). Conference manager also informs applications about events (see col. 19 lines 50-52). Applicants further argued that there is no exchange of data based on conferencing system in Tung (page 12 second paragraph of arguments filed 06/19/06). This statement is unfounded. Tung teaches data conferencing concurrent with audio and video, which deal with various formats and sizes that the system can accommodate (see col. 6 line 22 to col. 8 line 67). Applicants are reminded that the claims as

written are still broad and the updates data that applicants are arguing about is not clear in the claims.

Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., server appliance that exhibits various capabilities (what capabilities?) and the presenter client can dynamically change the format in which it provides data, based on the presenter client computer's capabilities, backlog, local network congestion, and information provided by the server) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Accordingly, the rejection is maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Choquier et al. (5774668) includes loading condition of servers.

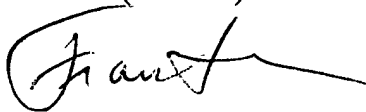
Nblett (US 5802322) discloses updates in a data conferencing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean

  
**FRANTZ B. JEAN**  
**PRIMARY EXAMINER**